

FILED
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RICHARD H. ...
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES MAGISTRATE COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3 06 70060 MEJ
)	
Plaintiff,)	PROPOSED ORDER AND
)	STIPULATION FOR CONTINUANCE
v.)	FROM DECEMBER 13, 2006 TO
)	JANUARY 9, 2007 AND EXCLUDING
MICHAEL ANTHONY KENNELLY,)	TIME FROM THE SPEEDY TRIAL ACT
)	CALCULATION (18 U.S.C. §
Defendant.)	3161(h)(8)(A)) AND WAIVING TIME
)	LIMITS UNDER RULE 5.1

With the agreement of the parties, and with the consent of the defendant, the Court enters this order scheduling alternatively a status conference or Preliminary Hearing and Arraignment on January 9, 2007 at 9:30A.M. before the duty magistrate judge, and documenting the defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from December 13, 2006 to January 9, 2007. The parties agree, and the Court finds and holds, as follows:

1. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

2. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for preliminary hearing.

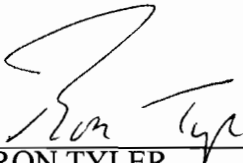
1 3. Counsel for the defense believes that postponing the preliminary hearing is in his
 2 client's best interest, and that it is not in his client's interest for the United States to indict the
 3 case during the normal 10-day timeline established in Rule 5.1. Counsel for the defense has
 4 specifically considered the need for additional time to continue consultations with the United
 5 States Attorney's Office on the question of his client's eligibility for pretrial diversion.

6 4. The Court finds that, taking into the account the public interest in the prompt
 7 disposition of criminal cases, these grounds are good cause for extending the time limits for a
 8 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,
 9 the Court finds that the ends of justice served by excluding the period from December 13, 2006
 10 to January 9, 2007 outweigh the best interest of the public and the defendant in a speedy trial. §
 11 3161(h)(8)(A).

12 5. Accordingly, and with the consent of the defendant, the Court (1) sets a status
 13 conference or alternatively, an arraignment and preliminary hearing before the duty magistrate
 14 judge on January 9, 2007 at 9:30A.M., and (2) orders that the period from December 13, 2006 to
 15 January 9, 2007 be excluded from the time period for preliminary hearings under Federal Rule of
 16 Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A)
 17 & (B)(iv).

18
 19 IT IS SO STIPULATED:

20
 21 DATED: 12/19/06⁷



 RON TYLER
 Attorney for Defendant

22
 23 DATED: 12/19/06⁷



 BLAKE D. STAMM
 Assistant United States Attorney

24
 25 IT IS SO ORDERED.

26
 27 DATED: 1-09-07



 HON. BERNARD ZIMMERMAN
 United States Magistrate Judge